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2 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

3 -----x

4 FERNANDO HERNANDEZ, KENNETH CHOW,  
5 BRYANT WHITE, DAVID WILLIAMS, MARQUIS ACKLIN,  
6 CECILIA JACKSON, TERESA JACKSON,  
MICHAEL LATTIMORE, and JUANY GUZMAN, Each  
Individually, And On Behalf Of All Other  
Persons Similarly Situated,

7 Plaintiffs,

8 -against- Index No:  
12 CV 4339 (ALC) (JLC)

9

10 THE FRESH DIET, INC., LATE NIGHT EXPRESS  
11 COURIER SERVICES, INC. (FL), FRESH DIET EXPRESS  
12 CORP. (NY), THE FRESH DIET - NY INC. (NY),  
13 FRESH DIET GRAB & GO, INC. (FL) a/k/a  
YS CATERING HOLDINGS, INC. (FL) d/b/a  
YS CATERING, INC. (FL), FRESH DIET EXPRESS  
CORP. (FL), SYED HUSSAIN, Individually,  
14 JUDAH SCHLOSS, Individually, and ZAIMI DUCHMAN,  
Individually,

15 Defendants.

16 -----x

17

18 EXAMINATION BEFORE TRIAL of the  
19 Plaintiff, DAVID A. WILLIAMS, taken by the  
20 Defendant, pursuant to Notice, held at the  
21 offices of Kaufman, Dolowich, Voluck & Gonzo  
22 LLP, 100 William Street, Suite 215, New York,  
23 New York 10038, on October 3, 2013, at 10:05  
24 a.m., before a Notary Public of the State of  
New York.

25

[Page 2]

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2  
3  
4 APPEARANCES:  
5 THE HARMAN FIRM, PC  
6 Attorney for Plaintiffs  
7 200 West 57th Street, Suite 900  
8 New York, New York 10019  
9  
10 BY: PETER J. ANDREWS, ESQ.  
11  
12 KAUFMAN, DOLOWICH, VOLUCK & GONZO LLP  
13 Attorneys for Defendants  
14 100 William Street, Suite 215  
15 New York, New York 10038  
16  
17 BY: JEFFERY A. MEYER, ESQ.  
18  
19 FILE #: 055611-0002  
20  
21  
22  
23  
24  
25

[Page 4]

1  
2 DAVID A. WILLIAMS, the witness  
3 herein, having been first duly sworn by a  
4 Notary Public of the State of New York, was  
5 examined and testified as follows:  
6 EXAMINATION BY  
7 MR. MEYER:  
8 Q. State your name for the record, please.  
9 A. David A. Williams.  
10 Q. State your address for the record,  
11 please.  
12 A. 39 Convent Avenue, Apartment 1, Yonkers,  
13 New York 10703.  
14 (Whereupon, Receipts were marked  
15 as Defendant's Exhibit 55, for  
16 identification, as of this date.)  
17 (Whereupon, 2010 1099 form was  
18 marked as Defendant's Exhibit 56, for  
19 identification, as of this date.)  
20 (Whereupon, Verification was  
21 marked as Defendant's Exhibit 57, for  
22 identification, as of this date.)  
23 (Whereupon, Independent  
24 contractor agreement was marked as  
25 Defendant's Exhibit 58, for

[Page 3]

1  
2  
3 STIPULATIONS  
4  
5 IT IS HEREBY STIPULATED AND AGREED by  
6 and between the attorneys for the respective  
7 parties herein, that filing, sealing and  
8 certification be and the same are hereby  
9 waived.  
10 IT IS FURTHER STIPULATED AND AGREED  
11 that all objections, except as to the form of  
12 the question shall be reserved to the time of  
13 the trial.  
14 IT IS FURTHER STIPULATED AND AGREED  
15 that the within deposition may be signed and  
16 sworn to before any officer authorized to  
17 administer an oath, with the same force and  
18 effect as if signed and sworn to before the  
19 Court and that a copy of this examination shall  
20 be furnished without charge to the attorney  
21 representing the witness testifying herein.  
22  
23  
24  
25

[Page 5]

1 D. Williams  
2 identification, as of this date.)  
3 (Whereupon, Manifests were  
4 marked as Defendant's Exhibit 59, for  
5 identification, as of this date.)  
6 Q. Mr. Williams, my name is Jeff Meyer.  
7 I'm an attorney for the defendants in an action  
8 that you're one of the named plaintiffs in  
9 against, amongst other parties, Late Night  
10 Express and The Fresh Diet.  
11 A. Yes, sir.  
12 Q. I'm going to be asking you some  
13 questions today about your relationship with  
14 those companies and the work you performed for  
15 those companies. I'm going to use them  
16 interchangeably, so when I say "the company,"  
17 unless I specifically say either The Fresh Diet  
18 or Late Night Express, I'll let you know, but  
19 otherwise, when I say "company," I mean, in a  
20 global sense, the work you performed.  
21 MR. ANDREWS: David, when Jeff  
22 is speaking, wait for him to finish.  
23 You don't have to keep saying yes or  
24 okay so that each one of you speaks  
25 separately.

[2] (Pages 2 to 5)

[Page 6]

1 D. Williams  
 2 Q. Just a couple of ground rules before we  
 3 get started.  
 4 If I ask a question and you don't  
 5 understand or you didn't hear me, just ask me,  
 6 and I will either reiterate the question or  
 7 rephrase it.  
 8 I ask that you verbalize your answers.  
 9 The court reporter cannot pick up nods of your  
 10 head or shaking of your head. It has to be a  
 11 verbal answer. Yes or no or whatever the  
 12 answer may be, it has to be spoken.  
 13 As your counsel did advise, please allow  
 14 me to finish my question, and then you will  
 15 answer, and I'll let you answer, and then I'll  
 16 ask another question so the court reporter can  
 17 pick it all up on the transcript.  
 18 Before we get started, are there any  
 19 questions you have about the procedure today?  
 20 A. No.  
 21 Q. Mr. Williams, have you taken any drugs,  
 22 any prescription drugs, or under the influence  
 23 of alcohol or any other substance that would  
 24 inhibit your ability to tell the truth today?  
 25 A. No.

[Page 7]

1 D. Williams  
 2 Q. I'll also add too, if you need to take a  
 3 break at any point, just let us know, and we  
 4 will gladly break. This is not an endurance  
 5 test. It's not a marathon. The one  
 6 proposition I do have is that if I've asked you  
 7 a question that you answer it, and then we can  
 8 take the break. We're not going to take a  
 9 break once the question has been asked but not  
 10 answered.  
 11 With that, let's get started.  
 12 Have you ever been deposed before?  
 13 A. Deposed? Explain it to me.  
 14 Q. Have you ever sat in a room similar to  
 15 this and had an attorney ask you questions --  
 16 A. Yes.  
 17 Q. -- on the record?  
 18 When was that?  
 19 A. That was like about -- approximately --  
 20 about ten years ago.  
 21 Q. What was it, a lawsuit? What type of --  
 22 A. Yeah, it was a lawsuit. I was in an  
 23 accident.  
 24 Q. What type of lawsuit?  
 25 A. I was in an accident.

[Page 8]

1 D. Williams  
 2 Q. You were suing a company or somebody who  
 3 hit you?  
 4 A. Yeah. I was in a car when the accident  
 5 take place, so I have to go to court for it.  
 6 Q. Who was the defendant in that case, if  
 7 you can recall?  
 8 A. That was -- I don't remember a name.  
 9 Q. It was an individual?  
 10 A. Yeah, it was an individual.  
 11 Q. Were you a plaintiff in that case?  
 12 A. Yes, sir.  
 13 Q. Was it during working time, or was  
 14 this --  
 15 A. We were going to work.  
 16 Q. It did not involve the company you  
 17 worked for or any other company?  
 18 A. No.  
 19 Q. Besides that case, have you ever been a  
 20 plaintiff in any other lawsuit --  
 21 A. No.  
 22 Q. -- besides this case?  
 23 A. No.  
 24 Q. Have you been a defendant in any other  
 25 lawsuit?

[Page 9]

1 D. Williams  
 2 A. No.  
 3 Q. Aside from a deposition, have you ever  
 4 given any other testimony under oath, whether  
 5 it be in a court proceeding or any sort of  
 6 administrative hearing?  
 7 A. Yes, sir.  
 8 Q. When was that?  
 9 A. Citizenship.  
 10 Q. How long ago was that?  
 11 A. That was about like -- about two months  
 12 ago.  
 13 Q. Congratulations.  
 14 A. Thank you.  
 15 Q. What government agency was that before?  
 16 A. This was a Federal agency. That over  
 17 there at Federal Plaza.  
 18 Q. The reason why we're here today is  
 19 because you worked for and provided services to  
 20 either Late Night Express or The Fresh Diet for  
 21 a period of time.  
 22 Can you tell us that period of time that  
 23 you performed those services?  
 24 A. Well, I worked with them in Jersey when  
 25 they just start the company, and that was in --

[3] (Pages 6 to 9)

[Page 10]

1 D. Williams  
 2 I work with them for two years. That was 2008.  
 3 Q. Do you know the month you started in?  
 4 A. No, I'm not going to remember the month,  
 5 but it was in 2008.  
 6 Q. When was the last day you performed  
 7 services for the company?  
 8 A. I work with them -- we're in 2013 now,  
 9 so that would be 2010.  
 10 Q. Do you know when in 2010 you stopped  
 11 providing services?  
 12 A. It was -- not precisely, but I think it  
 13 was somewhere in June, July, something like  
 14 that.  
 15 Q. Did you have a title or a job  
 16 description of the services you were to  
 17 provide?  
 18 A. Well, when I worked with them, I work  
 19 with other independent contractor, as they  
 20 said, so when we get in in the evening, we have  
 21 a special time to get there, but sometime we  
 22 get there even earlier than the time we  
 23 supposed to get there.  
 24 Q. What type of services though did you  
 25 provide?

[Page 11]

1 D. Williams  
 2 A. Well, the --  
 3 Q. What kind of work were you doing?  
 4 A. Well, at first, I did -- I was like  
 5 doing delivery, but at the same time, we have  
 6 to go in early parts of the day sometimes.  
 7 Like sometimes start work like 4:00. We be  
 8 there like 12:00 sometimes just help them, help  
 9 to pack the stuff in, put them together, to get  
 10 them in the bag because you have to separate  
 11 them and put them together to get them out for  
 12 delivery. You have to deliver them too.  
 13 Q. Aside from the delivery work, you're  
 14 saying you actually packed the bags?  
 15 A. Yeah.  
 16 Q. What else would you do other than  
 17 delivery work?  
 18 A. Well, one time Mr. Hussain was on a  
 19 vacation and --  
 20 Q. Who was on vacation?  
 21 A. Syed Hussain.  
 22 MR. ANDREWS: Syed Hussain.  
 23 A. And they asked me to just fill in for  
 24 him for a couple of weeks. I was like help to  
 25 run company just for like about two weeks.

[Page 12]

1 D. Williams  
 2 Q. You took over Mr. Hussain's --  
 3 A. Yeah.  
 4 Q. -- position for a couple of weeks --  
 5 A. Yeah.  
 6 MR. ANDREWS: Objection.  
 7 Q. -- is that correct?  
 8 A. Yes, sir.  
 9 Q. You believe that was approximately two  
 10 weeks or so that you worked in Mr. Hussain's  
 11 position?  
 12 A. Yeah.  
 13 MR. ANDREWS: Objection.  
 14 Q. Do you recall what year that was?  
 15 A. The year? I think it was 2011 because  
 16 we -- at the time, we just leave from the  
 17 company because the company start in Jersey,  
 18 and then they move from Jersey to Connecticut,  
 19 and then he was taking a vacation at that time.  
 20 Then when he was on vacation, they moved  
 21 the company from Connecticut to Brooklyn, and I  
 22 went to help them move everything over to  
 23 Brooklyn so we build the company.  
 24 Q. You said that was in 2011?  
 25 A. Yeah, I think it's 2011.

[Page 13]

1 D. Williams  
 2 Q. You testified previously that you worked  
 3 for the company for about two years from 2008  
 4 to 2010.  
 5 A. Yes, sir.  
 6 Q. Were you still working for the company  
 7 in 2011?  
 8 A. Mistake. Mistake. Sorry about that.  
 9 It was 2000 -- 2010. Yeah. No. I started in  
 10 2008. It was 2009.  
 11 Q. 2009?  
 12 A. 2009. Sorry about that.  
 13 Q. No problem.  
 14 Aside from the delivery work, you said  
 15 you packed bags, and for a two-week period or  
 16 so, you worked in Mr. Hussain's role?  
 17 A. Yeah.  
 18 Q. What other jobs, if any, did you  
 19 perform?  
 20 A. Well, it's help to supervise the  
 21 company, everything they did, deliver out, come  
 22 back in, and all that we had, had to get their  
 23 delivery done on time.  
 24 Q. On those days when you were helping  
 25 supervise the company, would you stay in the

[4] (Pages 10 to 13)

[Page 14]

1 D. Williams  
 2 building, or would you still be out making  
 3 deliveries?  
 4 A. Sometime after, if there a delivery that  
 5 get out, I have to take it out and deliver it.  
 6 Q. On those days, you weren't scheduled to  
 7 make deliveries, but you would fill in for  
 8 somebody --  
 9 MR. ANDREWS: Objection.  
 10 Q. -- is that correct?  
 11 A. Yeah.  
 12 Q. You didn't have a set schedule as to  
 13 when you were making deliveries; isn't that  
 14 correct?  
 15 MR. ANDREWS: Objection.  
 16 A. Yes.  
 17 Q. You mentioned before a couple times you  
 18 were supposed to start.  
 19 When you were doing deliveries, what  
 20 time would you arrive at the facility,  
 21 generally?  
 22 A. Well, in the beginning, I was supposed  
 23 to be like 4:00 in the evening, but I was  
 24 coming like 12:00, 1:00 so that I help the  
 25 packers stuff them to leave.

[Page 15]

1 D. Williams  
 2 Q. If you were packing, you were told to  
 3 come in around noon or 1:00?  
 4 A. Yeah.  
 5 Q. Were you told that you had to come in to  
 6 pack early, or would you just show up at 12:00,  
 7 1:00?  
 8 A. They asked us to come in.  
 9 MR. ANDREWS: Objection.  
 10 You can answer when I object.  
 11 It's just for the record, but let me  
 12 state the word objection.  
 13 A. Because sometimes they don't cook in  
 14 time to get packed for us to leave to go on  
 15 delivery.  
 16 Q. When you say "us," you mean the delivery  
 17 drivers?  
 18 A. All the delivery drivers.  
 19 Q. There was somebody else there who should  
 20 be doing the packing in the facility?  
 21 MR. ANDREWS: Objection.  
 22 A. Somebody supposed to be there. Somebody  
 23 don't turn up. They're not enough of them  
 24 there.  
 25 Q. They wouldn't show up?

[Page 16]

1 D. Williams  
 2 MR. ANDREWS: Objection.  
 3 A. They don't have enough there. Sometime  
 4 they have two people to do the packing, but the  
 5 amount to delivery that they have, sometime  
 6 people can't get it out fast enough, so we got  
 7 to go in and help.  
 8 Q. How would you know to come in early --  
 9 A. They called.  
 10 Q. -- to do the packing?  
 11 MR. ANDREWS: Objection.  
 12 A. Mr. Syed would call us and ask us to  
 13 come in.  
 14 Q. How many days a week would you come in  
 15 early?  
 16 A. Well, sometimes -- we end up coming in  
 17 sometimes like six days a week early because it  
 18 was like -- most work like dedicated themselves  
 19 to the company. That's like the only job some  
 20 of us have at the time.  
 21 Q. How many days a week would you work in  
 22 general?  
 23 A. Six days a week.  
 24 Q. You're saying every day you would come  
 25 in early?

[Page 17]

1 D. Williams  
 2 MR. ANDREWS: Objection.  
 3 A. Yes, sir.  
 4 Q. That 4:00 start time really didn't mean  
 5 much, right, because you were always coming in  
 6 between 12:00 and 1:00?  
 7 A. Yep.  
 8 Q. When you were coming in at 12:00 to  
 9 1:00, was it to the Brooklyn facility?  
 10 A. No. That was in Jersey. That's where  
 11 we start from first, in Jersey.  
 12 MR. ANDREWS: Remember, let Jeff  
 13 finish each question, and then answer.  
 14 Q. How long was the company in New Jersey  
 15 for?  
 16 A. Well, the time when I start there, it  
 17 was there for like about -- approximately --  
 18 about six months before they leave.  
 19 Q. The company was already there for six  
 20 months --  
 21 A. Yeah.  
 22 Q. -- before you started?  
 23 A. It was there before I started.  
 24 Q. Then you started?  
 25 A. Yeah.

[5] (Pages 14 to 17)

[Page 18]

1 D. Williams  
 2 Q. How long were you working in New Jersey  
 3 for?  
 4 A. About six months.  
 5 Q. For that entire six-month period, you  
 6 were coming in around noon or 1:00?  
 7 A. Yeah.  
 8 Q. After those six months, what happened?  
 9 A. That's when they transfer to  
 10 Connecticut.  
 11 Q. The move to Connecticut, was that in  
 12 2008, 2009, do you recall?  
 13 A. I think it was in 2009.  
 14 Q. When you were in Connecticut, when would  
 15 you show up to the facility?  
 16 A. Well, things got a little better over  
 17 there. Yeah.  
 18 Q. There were more people doing the  
 19 packing?  
 20 A. Yeah.  
 21 Q. You wouldn't have to come in early?  
 22 A. In a sense, we -- we employee other  
 23 packers, so we have more packers over there to  
 24 help pack the stuff, and so other driver  
 25 wouldn't have that pressure on them to come in

[Page 19]

1 D. Williams  
 2 to pack it up to leave. They couldn't get them  
 3 out in time because there would be a longer  
 4 route for them to go on.  
 5 Q. What time would you come in to work when  
 6 you were in Connecticut?  
 7 A. Well, sometime we get there like 4:00,  
 8 sometimes 5:00.  
 9 Q. How long was the company based in  
 10 Connecticut for?  
 11 A. You know, for the record, I don't -- it  
 12 wasn't there for a long time though. I don't  
 13 remember exactly how long it was there, but it  
 14 wasn't there for a long time.  
 15 Q. Less than a year?  
 16 A. Less than a year, yeah. Less than a  
 17 year.  
 18 Q. Would the company have moved to Brooklyn  
 19 still in 2009, or was that 2010?  
 20 A. No, it was in 2009. They didn't spend a  
 21 long time in Jersey. I mean Connecticut.  
 22 Q. In Connecticut?  
 23 A. Yeah.  
 24 Q. Once the company moved to Brooklyn, was  
 25 it similar to Connecticut where there was a

[Page 20]

1 D. Williams  
 2 larger number of packers?  
 3 MR. ANDREWS: Objection.  
 4 A. Yeah.  
 5 Q. How often would you pack the bags when  
 6 you were in Brooklyn?  
 7 A. In Brooklyn, what happens, sometime --  
 8 no. It -- they have a wide variety of clients.  
 9 Now we got to do like different states,  
 10 Connecticut, Boston, and New Jersey, Washington  
 11 D.C. and some other place. I don't remember  
 12 the other place over there, but you have --  
 13 drivers got to go out there and wait for other  
 14 workers to get them to do the delivery, and  
 15 then we got to drive back to Boston to meet the  
 16 other guys up there to give them delivery to go  
 17 and do the delivery.  
 18 Q. Did you ever make that Boston delivery?  
 19 A. Yeah.  
 20 MR. ANDREWS: Objection.  
 21 Q. Did you ever make the delivery run to  
 22 Washington?  
 23 A. No.  
 24 Q. Did you ever make any other  
 25 deliveries --

[Page 21]

1 D. Williams  
 2 A. Yeah, I deliver --  
 3 Q. -- outside of the tristate area?  
 4 Meaning, other than New York, New  
 5 Jersey, Connecticut, did you ever drive down  
 6 to, say, Philadelphia or Baltimore?  
 7 A. No.  
 8 Q. Just the Boston run?  
 9 A. Yeah.  
 10 Q. How many times did you make the Boston  
 11 run?  
 12 A. I did it like every day for about six  
 13 months.  
 14 Q. Every day for six months?  
 15 A. Yeah.  
 16 Q. Was this when the company was in  
 17 Brooklyn?  
 18 A. Yes, sir, when it was in Brooklyn.  
 19 Q. How did the Boston run work then?  
 20 When you were doing the Boston run, what  
 21 time would you get to the facility?  
 22 A. You would get there like -- like the  
 23 latest you get there like 6:00.  
 24 Q. Say you get there around 6:00 p.m.  
 25 Would the bags already be packed for

[6] (Pages 18 to 21)



[Page 22]

1 D. Williams  
 2 you?  
 3 A. Yeah, all be packed.  
 4 MR. ANDREWS: Objection.  
 5 Q. Would you load the bags into your car,  
 6 or would somebody else do that?  
 7 A. I got to load them inside.  
 8 Q. Was this your vehicle?  
 9 A. No.  
 10 Q. What vehicle were you driving?  
 11 A. There was a vehicle. There was a  
 12 company vehicle over there.  
 13 Q. Did you ever drive your own vehicle to  
 14 make deliveries?  
 15 A. Yeah, when I was going to -- when I was  
 16 doing the New York route and I do the  
 17 Connecticut route and the run in Jersey, I use  
 18 my own vehicle.  
 19 Q. Would you say the local deliveries --  
 20 A. Yeah.  
 21 Q. -- in the tristate area, you would use  
 22 your own vehicle?  
 23 A. Own vehicle, yeah.  
 24 Q. When you were going to Boston, you would  
 25 get to work somewhere around 6:00. You would

[Page 23]

1 D. Williams  
 2 then load the vehicle.  
 3 How long would it take you to load the  
 4 vehicle up?  
 5 MR. ANDREWS: Objection.  
 6 A. Well, it take like about an hour.  
 7 Q. How many bags, on average, would you be  
 8 loading in your vehicle?  
 9 A. Well, it all depend on the amount of  
 10 delivery that you got to take there, so  
 11 sometime it end up like -- sometime like --  
 12 sometime like 150, 200 bags.  
 13 Q. That 150 to 200 bags, was that the range  
 14 every day?  
 15 A. Not -- not every day, but it could be  
 16 more, it could be less.  
 17 Q. How much more less could it be?  
 18 A. Could be like about -- it all depends.  
 19 It all depends. It all depends. Sometime it  
 20 could be like fifty less. Sometime it can be  
 21 two less, can be ten more.  
 22 Q. What was the minimum number of bags you  
 23 would drive up to Boston on any given day?  
 24 MR. ANDREWS: Objection.  
 25 A. Well, most likely, to be like up to 200,

[Page 24]

1 D. Williams  
 2 the minimum.  
 3 Q. 200 is the minimum?  
 4 A. Yeah.  
 5 Q. What would be the maximum?  
 6 A. Well, the maximum -- well, the maximum  
 7 would be 200. The minimum would be 200.  
 8 Q. You said the minimum was 200 and the  
 9 maximum was 200?  
 10 A. The thing about that, it going to be  
 11 always like that. Sometimes might be go up to  
 12 like about 220. That would be the maximum, and  
 13 the minimum would be like about 180.  
 14 Q. Would be the minimum, 180?  
 15 A. Yeah.  
 16 Q. What days of the week would you make  
 17 these deliveries?  
 18 A. From Sunday to Friday.  
 19 Q. Sunday at 6:00 p.m. --  
 20 A. Yeah.  
 21 Q. -- you would show up?  
 22 A. Yeah.  
 23 Q. You would do that through Friday?  
 24 A. Through Friday.  
 25 MR. ANDREWS: Objection.

[Page 25]

1 D. Williams  
 2 Q. You would not make deliveries on  
 3 Saturdays, correct?  
 4 A. No.  
 5 Q. I want to break this out into three  
 6 different periods.  
 7 You have the New Jersey time when you  
 8 were based in New Jersey for about six months.  
 9 A. Yes.  
 10 Q. The Connecticut time, which was -- was  
 11 it about six months?  
 12 About how much time do you think the  
 13 company was --  
 14 A. It wasn't for that much time. I think  
 15 it was over there for about -- probably about  
 16 -- about four months. It wasn't there for a  
 17 long time.  
 18 Q. The company then, while you were  
 19 performing services for the company, would have  
 20 been in New York for a little over a year?  
 21 A. Yeah.  
 22 Q. About a year or so?  
 23 A. Yeah.  
 24 Q. Let's finish up this Boston run, and  
 25 we'll go back to the three breakouts then.

[7] (Pages 22 to 25)

[Page 26]

1 D. Williams  
 2 When you make the Boston run, you're  
 3 talking somewhere between 180 to 220 bags on  
 4 average six days a week. You would get to the  
 5 facility around 6:00. It would take you about  
 6 an hour to load.  
 7 You're saying around 7:00 or so, roughly  
 8 7:00, you would be on the road heading up to  
 9 Boston?  
 10 MR. ANDREWS: Objection.  
 11 A. Yes, sir.  
 12 Q. How many delivery stops would you have  
 13 going to Boston?  
 14 A. Well, I wouldn't have a delivery stop  
 15 going to Boston. I would go straight to Boston  
 16 and meet up on -- they call it King Street in  
 17 Boston. Then meet in a gas station with other  
 18 clients -- with other workers to give them  
 19 their bags to do their deliveries. So I would  
 20 meet them, like three, four of them sometimes  
 21 to get them their delivery for them to do their  
 22 delivery.  
 23 Q. You would go to one stop?  
 24 A. One stop.  
 25 Q. Would you physically then hand the bags

[Page 27]

1 D. Williams  
 2 out to everybody?  
 3 A. Yeah, because I got to get them their  
 4 own route. Everybody have their own route, so  
 5 it come in letters and numbers.  
 6 Q. You said about four to five drivers?  
 7 A. No. Over there, you got like about --  
 8 approximately like four drivers. Four drivers.  
 9 Q. There's four routes in Boston, in other  
 10 words?  
 11 A. Yeah, four routes in Boston.  
 12 Q. Once you handed out the four routes to  
 13 the drivers, would you just head back then?  
 14 A. Yeah.  
 15 Q. Would you head home?  
 16 Where would you go?  
 17 A. No. I got to head back to the facility,  
 18 drop off those returns and ice.  
 19 Q. When you say the "returns," what are  
 20 those?  
 21 A. Those are the bags and the ice.  
 22 Q. The bags, those are insulated bags?  
 23 A. Yeah.  
 24 Q. These would be the empty ones that the  
 25 delivery guys would bring back to you --

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1 D. Williams  
 2 A. Yes.  
 3 Q. -- is that correct?  
 4 A. Yes, sir.  
 5 Q. What's the ice? What is that?  
 6 A. That's some plastic things that are  
 7 frozen and put them inside.  
 8 Q. The companies would keep those and reuse  
 9 those?  
 10 A. Yeah.  
 11 Q. Approximately how long would it take you  
 12 to drive to Boston around 7:00 every day?  
 13 MR. ANDREWS: Objection.  
 14 A. Well, it take like sometime four hours  
 15 or more.  
 16 Q. Was it always the same gas station --  
 17 A. Yeah.  
 18 Q. -- where you would make the drop-offs  
 19 at?  
 20 A. Yes.  
 21 Q. How long would it take you once you were  
 22 there to hand out the routes and the bags?  
 23 A. Well, it would take about like -- over  
 24 about an hour or more. It depends on when the  
 25 other workers come to deliver because they're

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1 D. Williams  
 2 not going to be there waiting for you. Some of  
 3 them you got to wait for them, so whatever time  
 4 they turn up, you give them their route.  
 5 Q. If they were all there waiting for you,  
 6 how long would that take? Would that be  
 7 quicker obviously?  
 8 MR. ANDREWS: Objection.  
 9 A. It take like -- yeah. It take about  
 10 like an hour to do all of those.  
 11 Q. What time would you finish up  
 12 distributing all these bags?  
 13 MR. ANDREWS: Objection.  
 14 A. Would take like about -- probably about  
 15 an hour.  
 16 Q. What time of night or day?  
 17 A. If I leave like 7:00, I be getting there  
 18 like -- if I leave at 7:00, I would get there  
 19 like 11:00 at night.  
 20 Q. Then it would take from 11:00 to 12:00  
 21 approximately?  
 22 A. 12:00, 12:30, yeah.  
 23 Q. Then you would drive back to Brooklyn,  
 24 you said?  
 25 A. Yeah, drive back to Brooklyn.

[8] (Pages 26 to 29)



[Page 30]

1 D. Williams  
2 Q. How long would the drive back take you?  
3 A. Well, the drive back take you like up to  
4 five and a half to six hours.  
5 Q. You're saying that the drive starting at  
6 7:00 p.m. on a Monday or a Tuesday or a  
7 Wednesday would take you four hours to get to  
8 Boston?  
9 A. Yeah.  
10 Q. But then leaving at midnight, 12:30, in  
11 the middle of night, would take five or  
12 six hours --  
13 A. Yeah.  
14 MR. ANDREWS: Objection.  
15 Q. -- to get back to Brooklyn?  
16 A. Yeah.  
17 Q. That's correct?  
18 A. Yeah.  
19 Q. You would get back to Brooklyn at around  
20 5:00, 5:30, 6:00 in the morning?  
21 A. Yes, sir.  
22 Q. Why would that drive coming back take an  
23 hour or two longer than the drive up during  
24 rush hour?  
25 MR. ANDREWS: Objection.

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1 D. Williams  
2 A. Because after that time of the night,  
3 roadwork, construction work on the road. Takes  
4 up all the traffic. Sometimes sit in traffic  
5 for an hour or more sometimes. That's what  
6 take you longer to get down. Going up, it  
7 don't start there, but coming down, it starts,  
8 so any route you take, you're going to be at it  
9 coming down.  
10 Q. During the six months or so that you  
11 were doing the Boston run, there was always  
12 construction?  
13 MR. ANDREWS: Objection.  
14 A. Always construction work.  
15 Q. Which way would you travel?  
16 Would you always go 95?  
17 A. I take 95 sometimes, or I take the  
18 Merritt to the 91.  
19 Q. There's construction on both, either  
20 way?  
21 A. Yes, sir.  
22 MR. ANDREWS: Objection.  
23 Q. At least on the return?  
24 A. Yes, sir.  
25 Q. Let's go back to when you first started

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1 D. Williams  
2 with the company and you were in New Jersey.  
3 Where were you making deliveries?  
4 A. I make deliveries in Jersey and some  
5 part of New York, like Upstate New York.  
6 Q. Do you recall the address of the  
7 company's facility when it was in New Jersey?  
8 A. You know, the thing about -- I don't  
9 remember the address. I do not remember the  
10 address.  
11 Q. What time, again, would you get there  
12 when it was in New Jersey? What time would you  
13 have to show up?  
14 A. Sometime I would get there like 12:00 or  
15 1:00 sometime.  
16 Q. What time would you leave the facility  
17 to start making your deliveries?  
18 A. Well, it all depends on the time that we  
19 finish pack and get to deliver out, so we don't  
20 have a special time to leave when you have to  
21 pack the stuff in. No special time. So  
22 sometime we end up leaving there like --  
23 sometime like 4:00, 5:00.  
24 Q. When you were making deliveries in  
25 New Jersey, was there a specific route name or

[Page 33]

1 D. Williams  
2 number?  
3 A. Yeah.  
4 MR. ANDREWS: Objection.  
5 A. Well, the thing about that, you don't  
6 have a special route. You have the route that  
7 is print out already for you to go, but like  
8 that would take like up to sometime ten --  
9 sometime leave at like 4:00 in the evening or  
10 5:00 in the evening. You don't get -- by the  
11 time you get back home, it's like sometime like  
12 6:00, 7:00, 8:00 in the morning because the  
13 amount of delivery we got to do.  
14 Q. You're saying getting "home," meaning in  
15 your house?  
16 A. Yeah, get back to your house.  
17 Q. When you were working in New Jersey, you  
18 would start your route, make your deliveries,  
19 and then you would go straight home afterwards?  
20 A. Yeah.  
21 MR. ANDREWS: Objection.  
22 Q. When you were making these deliveries in  
23 New Jersey, approximately how many stops would  
24 you have?  
25 MR. ANDREWS: Objection.

[9] (Pages 30 to 33)

[Page 34]

1 D. Williams  
 2 A. Sometime have like thirty-five, forty,  
 3 forty-five. It all depends.  
 4 Q. What areas of New Jersey were you  
 5 delivering to?  
 6 MR. ANDREWS: Objection.  
 7 Q. If you can recall the towns.  
 8 A. Some of the towns -- you know -- so one  
 9 of them is Orange. I know I did go over there  
 10 in New York to the Bear Mountain Bridge,  
 11 somewhere out that side.  
 12 Q. The New Jersey route and, you said,  
 13 Upstate New York, would that be the same route?  
 14 A. Yeah, the same -- everything's on the  
 15 same manifest, same manifest.  
 16 Q. Was it Northern New Jersey for the most  
 17 part that you would be making deliveries in?  
 18 MR. ANDREWS: Objection.  
 19 A. You know, come by north and south, it's  
 20 like -- I don't really remember it like that,  
 21 but I know it's delivering in New Jersey.  
 22 Q. Do you recall any of the other towns in  
 23 New Jersey, other than Orange, that you made  
 24 deliveries to?  
 25 A. I don't remember. I know it's other

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1 D. Williams  
 2 place in Jersey. I don't remember the towns,  
 3 town to town. I don't remember them like that.  
 4 Q. Do you remember any of them in New York  
 5 other than the Bear Mountain area?  
 6 A. In New York? Well, in New York, it's  
 7 like places like from -- you know, come up with  
 8 it right now, I can't remember all them, but I  
 9 know I used to deliver all the way to New York  
 10 area.  
 11 Q. Upstate New York?  
 12 A. Upstate New York.  
 13 Q. When the company moved to Connecticut,  
 14 you said you would show up later, around, I  
 15 believe, 5:00 or 6:00 p.m.  
 16 MR. ANDREWS: Objection.  
 17 Q. When you were in Connecticut, where  
 18 would you make deliveries to?  
 19 A. Still in Jersey delivery.  
 20 Q. Was it the same locations that you were  
 21 delivering to while you were based in  
 22 New Jersey?  
 23 A. Yeah.  
 24 Q. It would be New Jersey and Upstate New  
 25 York?

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1 D. Williams  
 2 A. Upstate New York.  
 3 Q. If you were in Connecticut, were you  
 4 still delivering between thirty-five and  
 5 forty-five bags a night?  
 6 A. Yeah. Yeah. It all depends.  
 7 Q. How long would that take you to make  
 8 those thirty-five to forty-five deliveries each  
 9 night?  
 10 A. It take like the same amount of time or  
 11 even more because you got to go down. Like  
 12 even going down, you got to drive down on 287  
 13 and go down and get off at exit -- I think it  
 14 was exit off the Palisades Mall. I don't  
 15 remember the exit down there, but you get into  
 16 Jersey, and you start deliver down there. You  
 17 can take around Jersey and bring it back into  
 18 New York.  
 19 Q. What time would you finish when you were  
 20 based in Connecticut?  
 21 A. Well, in Connecticut, you finish like  
 22 about -- approximate, like 6:00, 630, 7:00  
 23 sometime in the morning.  
 24 Q. Is that when you would be home --  
 25 A. Yes.

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1 D. Williams  
 2 Q. -- around 6:30 or 7:00?  
 3 Was there a deadline or time given to  
 4 you by the companies that said you have to make  
 5 all your deliveries by X?  
 6 A. Yeah. They say you got to get all  
 7 delivery done before 7:00 in the morning.  
 8 Q. Was that 7:00 a.m. rule in effect --  
 9 A. 7:00 a.m.  
 10 Q. That was in effect when the company was  
 11 based in New Jersey?  
 12 A. Repeat that, sir.  
 13 Q. Was the 7:00 a.m. deadline in place when  
 14 the company was based in New Jersey?  
 15 A. No.  
 16 Q. Was there a deadline to make deliveries  
 17 by when you were working out of New Jersey?  
 18 MR. ANDREWS: Objection.  
 19 A. No.  
 20 Q. There was none?  
 21 A. (Witness shakes head.)  
 22 Q. When did this 7:00 a.m. deadline come  
 23 into place then?  
 24 A. When I get into the Connecticut.  
 25 Q. When the company then moved to Brooklyn,

[10] (Pages 34 to 37)

[Page 38]

1 D. Williams  
 2 into New York, what time would you show up at  
 3 the facility?  
 4 A. Well, when get into New York, that's  
 5 when they put on the -- start to put on a lot  
 6 of restriction now because they got to say you  
 7 got to get in a certain time, and after, get  
 8 back to the facility at certain times, and if  
 9 you don't get back there at that certain time  
 10 or don't get delivered on that certain time,  
 11 you can end up loss a route, and they put you  
 12 on a different route.  
 13 Q. What type of restrictions are you taking  
 14 about, deadlines, certain periods of time?  
 15 MR. ANDREWS: Objection.  
 16 A. Yeah.  
 17 Q. What is that?  
 18 MR. ANDREWS: Objection.  
 19 A. They said you got to get there like 4:00  
 20 in the evening. If we don't get there at 4:00,  
 21 it's like -- Syed would just like start curse,  
 22 all kind of words and all those things, you  
 23 know.  
 24 Q. You're saying you had to show up at the  
 25 facility around 4:00 p.m.?

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1 D. Williams  
 2 MR. ANDREWS: Objection.  
 3 A. Yeah.  
 4 Q. When it was in Brooklyn?  
 5 MR. ANDREWS: Objection.  
 6 A. Yes, sir.  
 7 Q. What time then would you leave the  
 8 facility to start making your deliveries?  
 9 A. Well, it depends on -- you get there --  
 10 some days you get there at 4:00, and you be  
 11 there sometimes until like 6:00 because you got  
 12 to get far route out first. So anybody in the  
 13 tristate area have to wait.  
 14 Q. Those other routes you were talking  
 15 about was the Boston route and the Washington  
 16 and Baltimore route?  
 17 A. Yes, sir.  
 18 Q. The ones going out?  
 19 A. Yeah. Yeah.  
 20 Q. Your testimony is that you wouldn't be  
 21 able to start your route in the tristate area  
 22 until around 6:00 p.m. or so?  
 23 MR. ANDREWS: Objection.  
 24 A. It could be later than that too.  
 25 Q. How much later?

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1 D. Williams  
 2 A. Could be like -- sometime could be like  
 3 three, four hours later.  
 4 Q. There's a possibility that you wouldn't  
 5 leave --  
 6 A. Until like 7:00, 8:00, 9:00 sometime.  
 7 MR. ANDREWS: Objection.  
 8 Again, let the question be  
 9 asked, and then answer.  
 10 Q. When the company was based in New York  
 11 and you were working there, you said for about  
 12 six months you were doing this Boston run.  
 13 Correct me if I'm wrong, but from the  
 14 date you were giving me, that would be about  
 15 another six months that you were doing other  
 16 routes; is that correct?  
 17 A. Yeah.  
 18 Q. In those other six months, you were  
 19 doing routes in the tristate area, what we  
 20 would call local routes?  
 21 A. Yes, sir.  
 22 Q. What would those routes be?  
 23 Do they have numbers or letters that you  
 24 can recall?  
 25 MR. ANDREWS: Objection,

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1 D. Williams  
 2 compound question.  
 3 A. They were -- they were like numbers and  
 4 letters because they have -- go by address, so  
 5 you got to take them to the address that is  
 6 stated on the manifest.  
 7 Q. Those addresses that show up on the  
 8 manifest, would you always be in Manhattan,  
 9 would you be New Jersey? Where would your  
 10 routes be?  
 11 MR. ANDREWS: Objection.  
 12 Q. If you had more than one.  
 13 A. The route would be like -- area like  
 14 close to Connecticut and New York. Like you  
 15 would have like Hartford, down there, and you  
 16 have Port Chester right there. You have King  
 17 Street. Got one over there on -- it's various  
 18 routes around that area too. Even on  
 19 Scarsdale, White Plains.  
 20 Q. All the locations you just named, those  
 21 are all routes you made deliveries to?  
 22 A. Yeah, and more.  
 23 Q. It was mostly Upstate New York --  
 24 A. Yeah.  
 25 Q. -- Westchester, and up north?

[11] (Pages 38 to 41)

[Page 42]

1 D. Williams  
 2 A. Yeah.  
 3 Q. Did you ever make any deliveries in  
 4 Manhattan?  
 5 A. No.  
 6 Q. Did you ever make any deliveries in  
 7 Queens?  
 8 A. One time.  
 9 Q. One time?  
 10 A. Yeah.  
 11 Q. Where was that in Queens?  
 12 A. In a delivery -- there was a delivery  
 13 that missing. Somebody was supposed to deliver  
 14 there and didn't get there in time, so when --  
 15 they leave before someone get that delivery, so  
 16 on my way out, I just drop the delivery off and  
 17 then head out.  
 18 Q. It was just one bag?  
 19 A. Yeah, just one bag.  
 20 Q. Did you ever make any deliveries in  
 21 Brooklyn?  
 22 A. No.  
 23 Q. Did you ever make deliveries in Staten  
 24 Island?  
 25 A. No.

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1 D. Williams  
 2 Q. Long Island?  
 3 A. No.  
 4 Q. Did you make any deliveries in  
 5 New Jersey when you were based in New York?  
 6 A. Yes, sir.  
 7 Q. Where in New Jersey would you make those  
 8 deliveries?  
 9 A. Jersey City.  
 10 Q. How often would you make this New Jersey  
 11 run?  
 12 MR. ANDREWS: Objection.  
 13 A. Like probably every day before I started  
 14 Boston route.  
 15 Q. Let's just focus on the time when the  
 16 company was based in New York --  
 17 A. Yeah.  
 18 Q. -- and prior to you making the Boston  
 19 run.  
 20 A. Yeah.  
 21 Q. I presume, then, the Boston run was the  
 22 last thing you did --  
 23 A. Yes, sir.  
 24 Q. -- before your relationship with the  
 25 company ended?

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1 D. Williams  
 2 A. Yes, sir.  
 3 Q. Is the New Jersey run also part of that  
 4 Upstate, Scarsdale, Port Chester run, or are  
 5 they two different things?  
 6 MR. ANDREWS: Objection.  
 7 A. Two different things.  
 8 Q. You said you made the Jersey City run  
 9 almost every day.  
 10 A. Yeah.  
 11 Q. You also said you were making deliveries  
 12 to Scarsdale, Port Chester, et cetera, correct?  
 13 A. Yes, sir, but because -- I used to work  
 14 in Jersey first. Then they change the route.  
 15 They changed the route, but that way you  
 16 started work Upstate.  
 17 Q. What dates or for how long a period of  
 18 time were you making deliveries to Jersey City?  
 19 A. That was like -- that was my route when  
 20 I just start with the company, and after I went  
 21 in an accident -- I was in a bad accident with  
 22 the company that I lost my car, and I was out  
 23 for like a couple of months, and when I came  
 24 back, they said -- I started do the route going  
 25 back to Boston.

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1 D. Williams  
 2 Q. You had an accident?  
 3 A. Yes, sir.  
 4 Q. Were you making a delivery when you had  
 5 this accident?  
 6 A. Yes, sir.  
 7 Q. When was that?  
 8 A. That was back in -- I think it was 2009.  
 9 Q. Do you recall the month?  
 10 A. No, I don't remember the month.  
 11 Q. You were out for, you said, a period of  
 12 time?  
 13 A. Yeah, like about -- probably about  
 14 three -- three to four months.  
 15 Q. During those three or four months, you  
 16 didn't make any deliveries at all?  
 17 A. No, sir.  
 18 Q. Was it wintertime, spring, summer?  
 19 A. The wintertime.  
 20 Q. The winter of 2009 going into 2010 --  
 21 A. Yeah.  
 22 MR. ANDREWS: Objection.  
 23 Q. -- or '08 into '09?  
 24 MR. ANDREWS: Objection.  
 25 A. No, 2009 into 2010.

[12] (Pages 42 to 45)

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1 D. Williams  
 2 Q. Once you returned, that's when you  
 3 started the Boston route?  
 4 A. I didn't start the Boston route exactly  
 5 when I returned. I was doing the route going  
 6 to Port Chester and other parts -- some part in  
 7 Connecticut and Upstate New York, the  
 8 Westchester area.  
 9 Q. How long did you do that Upstate run  
 10 before you were moved to the Boston run?  
 11 A. It was like about -- probably about a  
 12 month or two.  
 13 MR. ANDREWS: Objection.  
 14 A. It wasn't for long.  
 15 Q. How many months then would you say you  
 16 did the New Jersey route before the accident?  
 17 A. New Jersey route was the route I do for  
 18 approximately -- about -- about a year and two  
 19 months.  
 20 Q. You said you were only in the New York  
 21 facility for about a year, correct?  
 22 A. Yes, sir.  
 23 Q. You said, out of that year or so, six  
 24 months was dedicated to the Boston run, a month  
 25 or two was dedicated to the Upstate run. That

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1 D. Williams  
 2 would only leave about four months or so, if  
 3 you were based in New York for only a year, to  
 4 do the Jersey City run. You just said it was a  
 5 about a year and a half you did the Jersey City  
 6 run for.  
 7 MR. ANDREWS: Objection.  
 8 A. What happened, the New Jersey route,  
 9 I've been doing it from when they were in  
 10 New Jersey.  
 11 Q. Let me rephrase the question then.  
 12 While based in New York or out of  
 13 Brooklyn --  
 14 A. Yeah.  
 15 Q. -- how long did you do the Jersey City  
 16 run while based out of Brooklyn?  
 17 A. Well, when they based in Brooklyn, I did  
 18 the route for about approximately -- I think it  
 19 was about like four months or something like  
 20 that because I remember when I get over there,  
 21 it's -- shortly after that, I was -- I get in  
 22 the accident.  
 23 Q. You got in the accident during the time  
 24 you were doing the Jersey City run?  
 25 A. Yes, sir.

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1 D. Williams  
 2 Q. You were driving your own car at that  
 3 time?  
 4 A. Yes, sir.  
 5 Q. During the full two years or so that you  
 6 worked for the company, did you ever submit any  
 7 expenses, travel expenses, gas, car repairs,  
 8 any of those, to the company?  
 9 A. Yes, sir.  
 10 Q. You did?  
 11 A. Repeat that for me, please.  
 12 Q. During the time that you were making  
 13 deliveries --  
 14 A. Yes, sir.  
 15 Q. -- driving your own vehicle --  
 16 A. Yes, sir.  
 17 Q. -- for the company, did you ever submit  
 18 any expenses to the company for either gas,  
 19 tolls, car repairs, any of those things?  
 20 A. Only for tolls and gas.  
 21 Q. When did you submit those?  
 22 A. Like before the pay period.  
 23 Q. Was it while you were in New Jersey,  
 24 Connecticut, or Brooklyn?  
 25 A. Well, all the time. Where the facility

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1 D. Williams  
 2 be and you work, before the pay period, you got  
 3 to give them your gas receipts and the toll  
 4 receipt, that's it. And repair your car,  
 5 that's on you.  
 6 Q. I'm going to show you Defendant's 55.  
 7 These were documents produced by your attorney  
 8 to us. If you can take a look at those, we'll  
 9 call that Defendant's 55 (handing).  
 10 MR. ANDREWS: Take your time.  
 11 Have a look.  
 12 Are there Bate numbers? There  
 13 are Bate numbers. Okay.  
 14 Q. Mr. Williams, once you've had a chance  
 15 to review those, let me know. Then I'll start  
 16 the questioning.  
 17 MR. ANDREWS: He'll have  
 18 specific questions, so get a general  
 19 familiarity with what those are.  
 20 THE WITNESS: All right.  
 21 MR. ANDREWS: He's ready.  
 22 Q. Mr. Williams, do you recall submitting  
 23 those receipts to the company?  
 24 A. Yes, sir.  
 25 Q. Do you recall what period of time those

[13] (Pages 46 to 49)



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1 D. Williams  
 2 were submitted, in other words, which location  
 3 you were working at?  
 4 MR. ANDREWS: Objection.  
 5 Q. Were you based in New Jersey,  
 6 Connecticut, or New York at the time?  
 7 MR. ANDREWS: Objection.  
 8 A. New York.  
 9 Q. Those are all New York?  
 10 A. Yes, sir.  
 11 Q. Do you recall ever submitting any  
 12 receipts to the company while you were based in  
 13 New Jersey or Connecticut?  
 14 MR. ANDREWS: Objection.  
 15 A. Yes, sir.  
 16 Q. You did?  
 17 A. Yeah.  
 18 Q. Have you produced those?  
 19 A. If I produce them to the company?  
 20 Q. No.  
 21 Have you produced those to your  
 22 attorneys, which were then provided to us?  
 23 Well, it should have been provided to us.  
 24 MR. ANDREWS: Objection.  
 25 A. Not everything that -- not all of them

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1 D. Williams  
 2 we have because some of those receipts that  
 3 when we give them to the company, they don't  
 4 give us back some of them. You know, It didn't  
 5 work out to be that we got to keep them, you  
 6 know, because we got to throw them away. We  
 7 don't use them no more. It's just something  
 8 that we have in the cars, something like that.  
 9 Q. What name, if you can recall, was on  
 10 your compensation check, on your paycheck? Was  
 11 there a name of a company that you can recall?  
 12 A. I know it's The Fresh Diet on the check.  
 13 It's sent from different company coming from  
 14 Florida.  
 15 Q. Do you recall the name of the company?  
 16 A. No, I don't recall the name of the  
 17 company.  
 18 Q. At the end of every year, do you recall  
 19 receiving a tax form from one of these  
 20 companies?  
 21 A. For the tax return?  
 22 Q. Yes.  
 23 A. Yeah. You get a 9 -- 9-W. That's what  
 24 you file. You got to pay back taxes. Yeah.  
 25 Q. I'm going to show you now what we'll

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1 D. Williams  
 2 mark as Defendant's 56. Take a look at that  
 3 (handing).  
 4 MR. ANDREWS: Around 11:00,  
 5 we'll break for five minutes.  
 6 MR. MEYER: That's fine. Let me  
 7 finish up this line of questioning.  
 8 MR. ANDREWS: That's fine. I  
 9 don't want to disrupt you, but once an  
 10 hour, we should break.  
 11 Q. Mr. Williams, is that document familiar  
 12 to you?  
 13 A. I'm trying to look at it. It's a form.  
 14 What type of form is this? It's a tax return  
 15 form.  
 16 MR. ANDREWS: The question is,  
 17 does the document look familiar to you.  
 18 A. Yes, sir.  
 19 Q. Do you recall receiving this document --  
 20 A. Yes, sir.  
 21 Q. -- from the company?  
 22 A. Yes, sir.  
 23 Q. If you could look at box 7 right here,  
 24 there's a dollar figure there of about \$16,000  
 25 (indicating).

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1 D. Williams  
 2 Was that your earnings from the company  
 3 that you were paid by the company in 2010?  
 4 MR. ANDREWS: Objection.  
 5 A. Yes, sir.  
 6 Q. Did you file a 2010 tax return?  
 7 A. Yes, sir.  
 8 Q. Where on your 2010 tax return did you  
 9 indicate these earnings?  
 10 MR. ANDREWS: Objection.  
 11 A. (No verbal response given.)  
 12 Q. Let me ask you a different question.  
 13 Do you recall if you classified them as  
 14 wages, these earnings, or did you classify them  
 15 as non-employee compensation?  
 16 MR. ANDREWS: Objection.  
 17 A. I think they come as non -- I think --  
 18 you know, on the thing about that, I never  
 19 really look over it like that. I never really  
 20 take real note of the tax return. I just know  
 21 that when I filed my tax, they say, you know,  
 22 you owe certain amount of money, and you got to  
 23 pay it back, so I wasn't looking at like that.  
 24 MR. MEYER: So we can confirm  
 25 that, I request production of the 2010

[14] (Pages 50 to 53)

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1 D. Williams  
 2 tax return so that we can identify where  
 3 you classified these earnings.  
 4 A. Yes, sir.  
 5 Q. Do you recall receiving any other form  
 6 similar to this for other years from the  
 7 companies?  
 8 A. Yeah. You get it for two years.  
 9 Q. What was the other year?  
 10 A. Well, you get one for 2000 -- 2009 and  
 11 one for 2010, that's it.  
 12 Q. Did you file a tax return in 2009?  
 13 A. Yes, sir.  
 14 Q. Do you recall on the 2009 tax return  
 15 where you classified or where you categorized  
 16 whatever earnings you had on that 2009 form?  
 17 MR. ANDREWS: Objection.  
 18 A. Sir, as I said, I never really look at  
 19 it like that. Now you're saying to me, I like  
 20 taking note of it now. I didn't look at it  
 21 like that before.  
 22 MR. MEYER: I would also demand  
 23 production of the 2009 returns so we can  
 24 classify where these earnings were  
 25 categorized.

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1 D. Williams  
 2 A. Okay.  
 3 MR. MEYER: Do you want to take  
 4 a break?  
 5 MR. ANDREWS: Sure.  
 6 (Whereupon, a recess was taken  
 7 at this time.)  
 8 Q. Mr. Williams, there's something I just  
 9 wanted to go back and touch on before we get  
 10 into some other things here.  
 11 I had asked you before about any company  
 12 policies or any instructions to have the route  
 13 finished by a certain deadline in the day.  
 14 You had said that while the company was  
 15 based in New Jersey, there was a 7:00 a.m.  
 16 deadline to get all the bags delivered; is that  
 17 correct?  
 18 A. Yes, sir.  
 19 Q. Was there a similar deadline when the  
 20 company was in Connecticut?  
 21 A. Yes, sir.  
 22 Q. Do you recall what time that was?  
 23 A. Well, it was the same routine that you  
 24 got to get the bags and deliver -- I have to  
 25 finish deliver by 7:00 in the morning.

[Page 56]

1 D. Williams  
 2 Q. When the company and, hence, you were  
 3 working out of Brooklyn, was there a similar  
 4 deadline?  
 5 A. Yes.  
 6 Q. What time was that?  
 7 A. Same, 7:00.  
 8 Q. It was 7:00 a.m.?  
 9 A. Yes.  
 10 Q. Were you ever told that there was a  
 11 different time when the company was based in  
 12 New York, at 3:00 a.m. or 5:00 a.m., to get all  
 13 the routes delivered, all the bags delivered?  
 14 MR. ANDREWS: Objection.  
 15 A. Well, it change because some clients say  
 16 they would want to get done at certain time at  
 17 the morning, but it mostly like in New York. I  
 18 don't work on those route.  
 19 Q. You're saying that the route or the  
 20 routes that you worked in New York up until the  
 21 time you stopped working for the company in  
 22 2010, you had a 7:00 a.m. deadline --  
 23 MR. ANDREWS: Objection.  
 24 A. Yes, sir.  
 25 Q. -- for your specific route?

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1 D. Williams  
 2 A. Yes, sir.  
 3 Q. You're testifying that there were routes  
 4 that had earlier deadlines?  
 5 MR. ANDREWS: Objection.  
 6 A. Yes.  
 7 Q. Were there certain times you recall?  
 8 A. Got to deliver, by latest, 6:00 in the  
 9 morning.  
 10 Q. Was that the earliest deadline that you  
 11 can recall?  
 12 MR. ANDREWS: Objection.  
 13 He didn't say deadlines.  
 14 A. Yes.  
 15 Q. You're saying the bags had to be  
 16 delivered by 6:00 a.m. on other routes,  
 17 correct?  
 18 MR. ANDREWS: He said clients  
 19 had expectations.  
 20 Q. Were there routes that had specific  
 21 deadlines other than 7:00 a.m.?  
 22 A. Yes, sir.  
 23 Q. Do you recall what routes those were?  
 24 A. What I can recall is about the routes I  
 25 did. That's all I really can talk about.

[15] (Pages 54 to 57)

[Page 58]

1 D. Williams  
 2 Q. If you knew that there was client  
 3 expectations on other routes that deliveries be  
 4 made by 6:00 --  
 5 A. The reason for that because when  
 6 Mr. Hussain was out on vacation and I was  
 7 sitting for him within those couple of weeks, I  
 8 have to take all the calls that come in and  
 9 deliver that food that make, so I would know --  
 10 that's how I know some of those things. They  
 11 require that they would be done at certain time  
 12 of the morning, before certain of the morning.  
 13 Q. It's your testimony that you were  
 14 unaware of any 5:00 a.m. deadline to make  
 15 deliveries?  
 16 A. Well, it's not as a deadline, but that's  
 17 what they -- some clients would call it.  
 18 Q. It's what the clients wanted?  
 19 A. It's what they want.  
 20 Q. By 5:00 a.m.?  
 21 A. No. I didn't -- they didn't say 5:00.  
 22 They say 6:00.  
 23 Q. You have no recollection of any  
 24 5:00 a.m. --  
 25 A. No.

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1 D. Williams  
 2 Q. -- delivery deadlines or expectations?  
 3 MR. ANDREWS: Let him finish.  
 4 A. No.  
 5 Q. Mr. Williams, I'm going to show you what  
 6 we're going to mark as Defendant's 57.  
 7 Can you take a moment and look at that  
 8 and let me know if you've seen that document  
 9 before (handing)?  
 10 MR. MEYER: For reference, it's  
 11 a verification.  
 12 A. Yes, sir.  
 13 Q. Is that your signature on that document?  
 14 A. Yes, sir (indicating).  
 15 Q. Do you know why you were asked to sign  
 16 that document?  
 17 MR. ANDREWS: Don't disclose any  
 18 communications you've had with your  
 19 attorney.  
 20 MR. MEYER: That's right.  
 21 MR. ANDREWS: If you can answer  
 22 the question without disclosing, try.  
 23 Q. I'll rephrase.  
 24 Do you know what the purpose of that  
 25 document is?

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1 D. Williams  
 2 A. Yes.  
 3 Q. What is that?  
 4 A. For purpose of the attorney.  
 5 Q. When you signed that document, did you  
 6 review any other documents or discovery  
 7 documents in this case?  
 8 MR. ANDREWS: Objection.  
 9 A. Repeat it. Explain it to me.  
 10 Q. Let's do this.  
 11 Read the document again, and I'll ask  
 12 you a question.  
 13 MR. ANDREWS: You read it?  
 14 THE WITNESS: Yes, sir.  
 15 Q. After reading the document, which is  
 16 titled "Verification," do you know what the  
 17 purpose of that document is?  
 18 A. Yes, sir.  
 19 Q. What is that?  
 20 A. It's that -- where we get our wages that  
 21 we work overtime and didn't get paid for.  
 22 Q. I'm going to show you now what has  
 23 already been marked as Defendant's Exhibit 4.  
 24 It is Plaintiff's response to Defendant's first  
 25 set of interrogatories. I'll give you the

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1 D. Williams  
 2 document (handing). Review that.  
 3 MR. ANDREWS: Flip through it,  
 4 and he'll have specific questions.  
 5 Q. If you can, focus on, right now,  
 6 question number four and the response to  
 7 interrogatory number four. If you could, read  
 8 that as well as the answer, and let me know.  
 9 MR. ANDREWS: This is the  
 10 question, and this is the answer, and  
 11 Jeff is going to ask you about both the  
 12 question and the answer (indicating).  
 13 Are you ready?  
 14 THE WITNESS: Yeah.  
 15 Q. Again, I'm not interested in any  
 16 conversations you've had with any of your  
 17 attorneys, whether it be Mr. Harman,  
 18 Mr. Andrews, Mr. Moss, anybody.  
 19 A. Yes, sir.  
 20 Q. Do you recall being asked to respond to  
 21 that question by your attorneys? It's a yes or  
 22 no answer.  
 23 A. No.  
 24 Q. Do you recall ever providing those names  
 25 or providing those names to your attorneys

[16] (Pages 58 to 61)

[Page 62]

1 D. Williams  
 2 about potential witnesses --  
 3 A. Yes, sir.  
 4 Q. -- the names on the bottom there?  
 5 A. Yes, sir.  
 6 Q. Who is Mr. Spence?  
 7 A. Mr. Spence is a worker. He work with  
 8 the company, and he stopped working for them.  
 9 Q. What was his title?  
 10 Was he a driver?  
 11 A. He was a driver. He was the first  
 12 driver started drive to D.C.  
 13 Q. What about Mr. Williams, Earl Williams?  
 14 A. Earl Williams? That's a friend of  
 15 mines.  
 16 Q. How do you know him?  
 17 How did his name show up in this answer?  
 18 MR. ANDREWS: Objection.  
 19 A. Because he is a friend of mine.  
 20 Sometime he come over there. He come over  
 21 there to look at job over there.  
 22 Q. Did he ever perform services for the  
 23 company?  
 24 A. No, sir.  
 25 Q. Mr. Grey, how do you know Mr. Grey?

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1 D. Williams  
 2 A. That's my brother-in-law.  
 3 Q. Did your brother-in-law, Mr. Grey, ever  
 4 perform services for the company?  
 5 A. No, sir.  
 6 Q. We'll come back to that.  
 7 Mr. McLean, David McLean, who is that?  
 8 A. That's a friend of mines.  
 9 Q. Did Mr. McLean ever perform services for  
 10 the company?  
 11 A. No, sir.  
 12 Q. Now I'm going to ask you about each of  
 13 them.  
 14 Your friend, Mr. McLean --  
 15 A. Yes, sir.  
 16 Q. -- you said he never performed services  
 17 for either The Fresh Diet or Late Night  
 18 Express; is that correct?  
 19 A. No, sir.  
 20 MR. ANDREWS: I think you  
 21 misunderstood.  
 22 Yes, that is correct.  
 23 Q. Did he ever perform work --  
 24 A. Perform service for them?  
 25 Q. Yes.

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1 D. Williams  
 2 A. No.  
 3 Q. No, he never --  
 4 MR. ANDREWS: No, he didn't  
 5 perform service?  
 6 THE WITNESS: No.  
 7 MR. ANDREWS: Thank you.  
 8 Q. What would Mr. McLean know about your  
 9 hours or rate of pay or your relationship with  
 10 The Fresh Diet or Late Night Express?  
 11 MR. ANDREWS: Objection.  
 12 A. Because they know the hours when I leave  
 13 and when I get back, and they would ask me, and  
 14 I would explain to them how long I stay out  
 15 there.  
 16 Q. Mr. McLean would know the hours that you  
 17 would leave your apartment --  
 18 A. Yeah, my apartment.  
 19 Q. -- and the hours you would come back to  
 20 your apartment?  
 21 A. Yes, sir.  
 22 Q. Would he know anything else about your  
 23 job other than what you told him?  
 24 A. No.  
 25 Q. Mr. Grey, you said, was your

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1 D. Williams  
 2 brother-in-law?  
 3 A. Yeah.  
 4 Q. What would Mr. Grey know about the  
 5 companies other than what you told him?  
 6 MR. ANDREWS: Objection.  
 7 A. He know nothing unless I told him.  
 8 Q. Mr. Williams --  
 9 A. Yeah.  
 10 Q. -- Earl Williams --  
 11 A. Yes, sir.  
 12 Q. -- what would he know about the company  
 13 other than what you would tell him?  
 14 A. Because he was trying to get a job  
 15 there.  
 16 Q. You said he never actually --  
 17 A. Worked there.  
 18 Q. -- performed services for the company?  
 19 A. No.  
 20 Q. Do you know if he sent in an  
 21 application?  
 22 What steps did he take to try to get a  
 23 job there?  
 24 MR. ANDREWS: Objection.  
 25 A. Well, he just go there, and he ask

[17] (Pages 62 to 65)

[Page 66]

1 D. Williams  
 2 like -- he ask if he could get a job. He  
 3 didn't like fill out application. Said like if  
 4 there is an opening, let him know.  
 5 Q. Do you know if Mr. Williams ever got a  
 6 call after that?  
 7 A. Mr. Williams didn't work there.  
 8 Q. Do you know if he ever received a call  
 9 from the company for any reason?  
 10 A. No.  
 11 Q. Mr. Spence, you said, was employed by  
 12 the company.  
 13 A. Yes, sir.  
 14 Q. He was the one who made the Washington,  
 15 D.C. --  
 16 A. Yes, sir.  
 17 Q. -- drive?  
 18 Was that while the company was based in  
 19 New Jersey?  
 20 A. No, sir.  
 21 Q. When was that?  
 22 A. When it was based in Brooklyn.  
 23 Q. Do you know when Mr. Spence started  
 24 working for the company?  
 25 A. He started work for them when they were

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1 D. Williams  
 2 in Brooklyn.  
 3 Q. If Mr. McLean was called to testify in  
 4 this case, would he have any independent  
 5 knowledge on his own that he would add to this  
 6 case other than what you've told him?  
 7 MR. ANDREWS: Objection.  
 8 A. No.  
 9 Q. I'm going to ask the same question about  
 10 Mr. Williams.  
 11 Does he have any independent knowledge  
 12 of the inner workings of the company and your  
 13 relationship with the company other than what  
 14 you've told him?  
 15 MR. ANDREWS: Objection.  
 16 A. Yes.  
 17 Q. What would that be?  
 18 Aside from his application process,  
 19 would he know anything else about the company?  
 20 MR. ANDREWS: Objection.  
 21 A. I don't know.  
 22 Q. As to Mr. Grey, if he were called to  
 23 testify in this case, other than what you've  
 24 told him, does he have any independent  
 25 knowledge of how the company works and how the

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1 D. Williams  
 2 company operates?  
 3 A. No.  
 4 MR. ANDREWS: Objection.  
 5 Q. Besides Mr. Spence, who we've already  
 6 talked about, are there any other employees  
 7 that you have discussed this litigation with,  
 8 employees of the company?  
 9 A. Yes, sir.  
 10 Q. Who are they?  
 11 A. Marquis, Teresa, Kenneth.  
 12 Q. If you could give me first and last  
 13 name, it would be easier.  
 14 A. Some of the guys I don't know by the  
 15 last name, but I know Teresa Jackson.  
 16 MR. ANDREWS: Say the first and  
 17 last name.  
 18 A. Yeah. Teresa Jackson, Marquis Acklin,  
 19 Cecilia Jackson, Andrew Spence. I don't  
 20 remember the rest of them by their last name.  
 21 Q. Was there anybody else you know by the  
 22 first name?  
 23 A. Yes, sir.  
 24 Q. Who is that that you discussed this  
 25 litigation with?

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1 D. Williams  
 2 A. Kenneth, Fernando. Those are the guys  
 3 that I remember by their names, by first names.  
 4 Q. I'm going to give this back to you  
 5 again. This is Defendant's Exhibit 4, which  
 6 you had previously reviewed (handing).  
 7 Do you recall reading those responses,  
 8 and specifically your responses incorporated  
 9 into that answer, prior to them being served  
 10 upon the defendants in this case?  
 11 MR. ANDREWS: Objection.  
 12 A. Yes.  
 13 Q. Do you recall when you did that?  
 14 A. No.  
 15 MR. ANDREWS: Are you moving to  
 16 another document now?  
 17 MR. MEYER: I will be in a  
 18 second, yes.  
 19 Q. Mr. Williams, I'm going to show you now  
 20 what's already been marked as Defendant's  
 21 Exhibit 5. It is entitled "Plaintiff's First  
 22 Corrected and Supplemented Response To  
 23 Defendant's First Set of Requests For the  
 24 Production of Documents (handing)".  
 25 Can you take a look at that?

[18] (Pages 66 to 69)



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1 D. Williams  
 2 MR. ANDREWS: Again, just  
 3 familiarize yourself with it. Jeff will  
 4 have specific questions.  
 5 Q. Mr. Williams, does that document look  
 6 familiar to you?  
 7 A. Yes, sir.  
 8 Q. If I could direct your attention  
 9 specifically to, starting on page 39, document  
 10 request number 116 to 147 and the responses  
 11 thereto, again, I don't want to know about  
 12 conversations with you and your counsel, but  
 13 did you produce documents to your attorneys  
 14 responsive to request number 116?  
 15 MR. ANDREWS: Objection.  
 16 A. Yes.  
 17 Q. The same thing with regard to 117.  
 18 MR. ANDREWS: Do you understand  
 19 the question?  
 20 Q. Did you produce any documents responsive  
 21 to document request number 117 to your  
 22 attorneys?  
 23 A. Yes, sir.  
 24 Q. What did you produce in response to that  
 25 specific request?

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1 D. Williams  
 2 A. Well, they asked me -- what I asked to  
 3 bring in, I bring in.  
 4 Q. What document do you recall producing?  
 5 A. Like for the -- I bring in document for  
 6 the route and pay stubs.  
 7 Q. I'm going to show you, Mr. Williams, a  
 8 document which is Bate stamped FD000959 to 964  
 9 (handing).  
 10 If you could take a look at that, we'll  
 11 call this Defendant's 58.  
 12 A. This document, I never seen this  
 13 document.  
 14 Q. You've never seen it?  
 15 A. Never see this before.  
 16 Q. Can you please reread document request  
 17 number 117, and then also read the response to  
 18 the same?  
 19 MR. ANDREWS: Have you read it?  
 20 THE WITNESS: Yes.  
 21 Q. If I could direct your attention,  
 22 Mr. Williams, to document request number 118,  
 23 do you recall producing to your attorneys any  
 24 documents responsive to that request, being  
 25 request number 118?

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1 D. Williams  
 2 A. No.  
 3 Q. In the response, it says there are  
 4 certain documents that are responsive, being  
 5 documents Bate stamped FD002956 to FD003414.  
 6 I'm going to show you now those documents  
 7 (handing).  
 8 This is the entire stack (indicating).  
 9 I'm not going to ask you to go through page by  
 10 page because we'd be here the next six hours if  
 11 we did it that way.  
 12 Just by looking at the first page here,  
 13 does that document look familiar to you?  
 14 A. Yes, sir.  
 15 Q. How does it look familiar?  
 16 What do you recognize it from?  
 17 MR. ANDREWS: Objection.  
 18 A. From the company. It's where we get to  
 19 do the delivery.  
 20 Q. Would this be, I guess in common company  
 21 terms, the manifest?  
 22 A. Yes, sir.  
 23 Q. Up on top, the first notation above the  
 24 grid says, "NY-R2".  
 25 A. Yes, sir.

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1 D. Williams  
 2 Q. Can you explain what that is?  
 3 A. That's for the route you're going to go  
 4 on.  
 5 Q. Did you ever deliver the New York R2  
 6 route?  
 7 A. No, sir.  
 8 Q. Do you recall the route numbers or names  
 9 of any of the routes you did deliver to?  
 10 A. Yes, sir.  
 11 Q. What were those?  
 12 A. If it's in this document, I could tell  
 13 you.  
 14 Q. If you can recall first.  
 15 MR. ANDREWS: The question is do  
 16 you recall the names of the routes that  
 17 you covered.  
 18 A. No, I can't recall the name right now.  
 19 Q. You know you did not deliver to New York  
 20 R2?  
 21 A. No, sir.  
 22 Q. Did you ever deliver to route BN?  
 23 A. No, sir.  
 24 Q. What about route NZ?  
 25 A. Yes, sir.

[19] (Pages 70 to 73)

[Page 74]

1 D. Williams  
 2 Q. Looking specifically at this page, which  
 3 is FD002959 --  
 4 A. Yes, sir.  
 5 Q. -- there are handwritten notations on  
 6 here.  
 7 A. Yeah.  
 8 Q. Is that your handwriting?  
 9 A. Yes, sir.  
 10 Q. There's a column that says, "268 miles".  
 11 There's handwritten numbers in each of those  
 12 boxes.  
 13 Do you know what those numbers  
 14 represent?  
 15 A. Yes, sir.  
 16 Q. What are those handwritten numbers?  
 17 A. These are the time you drop off the bag  
 18 and this -- oh, this is the bag that get  
 19 dropped off, and when the bag is dropped off is  
 20 right here (indicating).  
 21 MR. ANDREWS: For the record,  
 22 that's in the column that's titled "268  
 23 Miles".  
 24 THE WITNESS: Yeah.  
 25 MR. ANDREWS: The question is do

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1 D. Williams  
 2 you know what the handwriting is for.  
 3 A. This the amount of bags (indicating).  
 4 This is amount of bags dropped off  
 5 (indicating). Right here is how many returns I  
 6 get back, how many bags I pick up (indicating).  
 7 This is the time you do your delivery  
 8 (indicating).  
 9 Q. You're sure the handwritten numbers in  
 10 the column that says, "268 miles" is the number  
 11 of bags?  
 12 A. No. That's the mileage.  
 13 Q. The handwritten numbers there, just by  
 14 looking at it, it looks like it goes one  
 15 through eight. They're out of order.  
 16 Would that be the order in which you  
 17 made those deliveries?  
 18 A. Yes, sir.  
 19 Q. You made this delivery first, this one  
 20 second, third, fourth (indicating)?  
 21 A. No.  
 22 Q. No?  
 23 A. No, amount of bags you drop off.  
 24 Q. One place was one bag?  
 25 A. Yeah.

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1 D. Williams  
 2 Q. Let's start with the one that says the  
 3 number one here.  
 4 A. Yeah.  
 5 Q. It means you dropped off one, the number  
 6 one, and you picked up three?  
 7 A. Yes, sir.  
 8 Q. What number is this (indicating)?  
 9 A. Twelve.  
 10 Q. That's a twelve?  
 11 A. Yeah.  
 12 Q. This says you dropped off twelve, picked  
 13 up two?  
 14 A. Yeah.  
 15 Q. This one's seven (indicating).  
 16 It means you dropped off seven, picked  
 17 up two?  
 18 A. Yes, sir.  
 19 Q. This is another page that says 2009,  
 20 August 3, 2009 (indicating).  
 21 There's no handwriting in that  
 22 "268 Miles" column; is that correct?  
 23 A. Yes, sir.  
 24 Q. Looking at these two, the first time  
 25 appears to be 7:00.

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1 D. Williams  
 2 Would that be the time you made your  
 3 first delivery?  
 4 MR. ANDREWS: Objection.  
 5 A. Not all the pages is right here  
 6 because -- could be -- this is when I made the  
 7 first delivery that night, but when you finish  
 8 the delivery, everything is not right here  
 9 (indicating).  
 10 Q. Would you make the deliveries in the  
 11 order that they appear on the manifest from top  
 12 to bottom?  
 13 A. Not all the time.  
 14 Q. Did you keep these manifests after your  
 15 day of work was done?  
 16 A. Yes, sir.  
 17 Q. Of this whole document production, every  
 18 route in there that's NY-R2, you never  
 19 delivered to; is that correct?  
 20 MR. ANDREWS: Objection.  
 21 A. No.  
 22 Q. In every document in this stack that  
 23 says route BN, you've never delivered?  
 24 A. No.  
 25 MR. ANDREWS: Objection.

[20] (Pages 74 to 77)

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1 D. Williams  
 2 Q. NZ you did deliver to?  
 3 A. Yes, sir.  
 4 Q. At times?  
 5 A. Yes, sir.  
 6 Q. You're saying for these specific  
 7 documents, which we've already sited, that is  
 8 your handwriting?  
 9 A. Yes, sir.  
 10 Q. It's your testimony that on  
 11 August 13, 2009 you ran the NZ route?  
 12 A. Yes, sir.  
 13 Q. This is the same NZ route,  
 14 August 13 2009?  
 15 A. Yes, sir.  
 16 Q. There are some clients, in what should  
 17 be deliveries towards the bottom, the last  
 18 seven or so, that do not have any cooler bags  
 19 or times.  
 20 Can you explain why that is?  
 21 MR. ANDREWS: Objection.  
 22 A. Because the thing about it, sometime you  
 23 end up getting there, and some day I forget it  
 24 because you try to rush. Sometime try to get  
 25 to another delivery because time getting up on

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1 D. Williams  
 2 you. Some days you don't get to write them in.  
 3 Q. Did you make those deliveries?  
 4 A. Yes, sir.  
 5 Q. Absolutely 100 percent sure --  
 6 A. Yes, sir.  
 7 Q. -- you made those deliveries?  
 8 A. Yes, sir.  
 9 Q. This says route BN --  
 10 A. No.  
 11 Q. -- but it's your testimony you never did  
 12 BN.  
 13 Did you ever deliver to route CL?  
 14 A. Sometimes.  
 15 Q. Is that your handwriting on the --  
 16 A. No.  
 17 MR. ANDREWS: Could you read the  
 18 Bate numbers in? Otherwise, we'll never  
 19 know.  
 20 MR. MEYER: This is the manifest  
 21 for August 23, 2009 for route CL. We'll  
 22 just do it that way because there's  
 23 going to be multiple pages.  
 24 Q. This route, NZ, for April 28, 2009, is  
 25 that your handwriting on the right?

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1 D. Williams  
 2 A. Yes, sir.  
 3 Q. You ran this route on August 28, 2009?  
 4 A. Yes, sir.  
 5 Q. Again, there are some deliveries that do  
 6 not have any annotations in the "Cooler"  
 7 category.  
 8 A. Some of them you don't get to write them  
 9 in because of the time schedule when you try to  
 10 rush sometimes. Some day just forget to just  
 11 write it in.  
 12 Q. Towards the bottom of the next page,  
 13 FD002969, it just looks like the copying got  
 14 messed up. It says BN. It's a different date,  
 15 May 6, 2009.  
 16 Is that your handwriting?  
 17 A. No, sir.  
 18 Q. Is that your handwriting on 2970?  
 19 A. Yes, sir.  
 20 Q. Just note, there's no other annotations  
 21 other than one delivery time, correct?  
 22 A. Yes, sir.  
 23 Q. ND was a route you did run?  
 24 A. Yes, sir.  
 25 Q. This is your handwriting on --

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1 D. Williams  
 2 A. Yes, sir.  
 3 Q. -- 6/22/2009?  
 4 A. Yes, sir.  
 5 Q. This is route CL on August 23, 2009.  
 6 There's some handwriting at the top.  
 7 Is that yours?  
 8 A. No, sir.  
 9 Q. NZ --  
 10 A. Yes, sir.  
 11 Q. -- on April 14, 2009.  
 12 That is your handwriting?  
 13 A. Yes, sir.  
 14 Q. This is route NZ for April 16, 2009.  
 15 Is that your handwriting?  
 16 A. No, that's not my handwriting right here  
 17 (indicating).  
 18 Q. Would that indicate that you did not  
 19 make that delivery route that day?  
 20 A. No, I did not --  
 21 MR. ANDREWS: Let him finish.  
 22 Q. It's your testimony on April 16, 2009  
 23 you did not deliver the NZ route?  
 24 MR. ANDREWS: Objection.  
 25 A. I did deliver it. What happen, sometime

[21] (Pages 78 to 81)

[Page 82]

1 D. Williams  
 2 they cut a route because of sometime if it's  
 3 too much -- if too much bags to deliver on the  
 4 route, they got to cut it up and fit somebody  
 5 else in.  
 6 Q. You only did a portion of the --  
 7 A. Sometime, yeah.  
 8 Q. -- NZ route --  
 9 MR. ANDREWS: Objection.  
 10 Q. -- on April 16, 2009?  
 11 MR. ANDREWS: Objection.  
 12 A. Yes, sir.  
 13 Q. Are there any annotations on any of the  
 14 manifests from April 16, 2009 that show your  
 15 handwriting?  
 16 A. Yes, sir.  
 17 Q. Where is that?  
 18 It's a three-page manifest for that one  
 19 day. That's April 27th?  
 20 A. (Indicating.)  
 21 MR. ANDREWS: Just on these  
 22 three pages, do you see your  
 23 handwriting?  
 24 THE WITNESS: No, my  
 25 handwriting's not on those.

[Page 83]

1 D. Williams  
 2 Q. You're absolutely positive that you made  
 3 deliveries on that route that day?  
 4 MR. ANDREWS: Objection.  
 5 A. Yes, sir.  
 6 Q. Is there any indication on this  
 7 three-page manifest that would prove that?  
 8 MR. ANDREWS: Objection.  
 9 A. No, not on these, sir.  
 10 MR. MEYER: Let me skip through  
 11 these real quick to see if there's  
 12 anything else.  
 13 FD002955 through, it should be,  
 14 3414 we'll mark as manifests.  
 15 Q. Mr. Williams, I'm going to show you what  
 16 is a manifest for April 6, 2009 for route CL  
 17 (handing). It seems to be a two-page document,  
 18 at least what was produced.  
 19 Does that handwriting look familiar to  
 20 you?  
 21 A. No, sir.  
 22 Q. That's not your route --  
 23 A. No.  
 24 Q. -- CL?  
 25 MR. ANDREWS: Objection.

[Page 84]

1 D. Williams  
 2 A. No.  
 3 Q. Did you ever make any deliveries on the  
 4 CL route?  
 5 A. Coincidence, yes.  
 6 Q. Did you regularly make deliveries --  
 7 A. No.  
 8 Q. -- on the CL route?  
 9 A. No.  
 10 Q. When did you make deliveries on the CL  
 11 route?  
 12 A. Not recall. I don't remember exactly  
 13 when because not something you do all the time.  
 14 Q. Who delivered on the CL route?  
 15 A. Teresa.  
 16 Q. Teresa Jackson?  
 17 A. Yes, sir.  
 18 Q. Besides the NZ route, are there any  
 19 other routes that you delivered to regularly?  
 20 MR. ANDREWS: Objection.  
 21 A. You know, there's other routes, but I  
 22 don't remember it because often time they cut  
 23 them up in different names and word, so some of  
 24 them I don't recall them because I stop work  
 25 with them for like two years now, so --

[Page 85]

1 D. Williams  
 2 Q. Do you recall the name of the Boston  
 3 route?  
 4 A. No. It's -- it's one place I go and  
 5 drop-off, so I don't -- don't know deliver up  
 6 there.  
 7 Q. Do you recall ever making deliveries on  
 8 the RT route?  
 9 A. RT?  
 10 MR. ANDREWS: Objection.  
 11 The question is do you recall  
 12 that.  
 13 A. No, I don't remember for that.  
 14 Q. Would you have any reason to have  
 15 manifests from the RT route in your possession?  
 16 MR. ANDREWS: Objection.  
 17 A. I don't remember if --  
 18 Q. You don't remember having any manifests?  
 19 A. I don't remember.  
 20 Q. Do you currently have any manifests from  
 21 deliveries you made on behalf of The Fresh Diet  
 22 or Late Night Express in your possession?  
 23 A. No.  
 24 Q. Did you produce any manifests in your  
 25 possession to your attorneys as part of this

[22] (Pages 82 to 85)

[Page 86]

1 D. Williams  
 2 litigation?  
 3 A. Yes, sir.  
 4 Q. To the best of your knowledge, were  
 5 those all from the NZ route, or were there any  
 6 other routes also?  
 7 MR. ANDREWS: Objection.  
 8 A. Could be from other routes, but not -- I  
 9 can't remember them, all of them, like now. I  
 10 don't remember all of them.  
 11 Q. Just so we're clear, because I sort of  
 12 want to move back to our prior discussion about  
 13 the different routes that you had here, was the  
 14 NZ route the New Jersey/Upstate New York route?  
 15 A. Yes, sir.  
 16 Q. Boston was a separate route?  
 17 A. Yes, sir.  
 18 Q. That was a large majority of the routes  
 19 you delivered to?  
 20 MR. ANDREWS: Objection.  
 21 A. Yes, sir.  
 22 Q. The RT route, you said, you did not  
 23 recall?  
 24 A. Not recall.  
 25 Q. Do you know who did run the RT route,

[Page 87]

1 D. Williams  
 2 what driver?  
 3 MR. ANDREWS: Objection.  
 4 A. No.  
 5 Q. CL, you said, was Teresa Jackson's?  
 6 A. Yes, sir.  
 7 Q. While you were making deliveries for the  
 8 company, did you make deliveries or did you  
 9 work anywhere else?  
 10 A. No, sir.  
 11 Q. Have you worked for any other delivery  
 12 companies?  
 13 A. No, sir.  
 14 Q. Aside from making deliveries, did you  
 15 work for any other companies while you were  
 16 working for The Fresh Diet --  
 17 A. No, sir.  
 18 Q. -- or Late Night Express?  
 19 MR. ANDREWS: The answer's no,  
 20 right?  
 21 THE WITNESS: (Witness nods  
 22 head.)  
 23 Q. Route BN, I don't know if we talked  
 24 about that.  
 25 Do you recall ever making deliveries on

[Page 88]

1 D. Williams  
 2 that?  
 3 A. No, sir.  
 4 MR. ANDREWS: Objection.  
 5 Q. When you got your manifests, would you  
 6 set up the delivery route, which place you  
 7 would deliver to first?  
 8 MR. ANDREWS: Objection.  
 9 A. No.  
 10 Q. Would that be your decision?  
 11 A. No, company's decision.  
 12 Q. If you knew a better way, would you  
 13 change the route?  
 14 MR. ANDREWS: Objection.  
 15 A. No.  
 16 Q. Aside from the manifests for route NZ,  
 17 do you have any other documentation that would  
 18 show the times that you were working or the  
 19 times that you made deliveries?  
 20 A. No.  
 21 Q. Were you compensated on a weekly or  
 22 biweekly basis?  
 23 How often were you paid?  
 24 MR. ANDREWS: Objection to form.  
 25 A. Every two weeks. Rephrase that.

[Page 89]

1 D. Williams  
 2 MR. ANDREWS: Do you want to add  
 3 to that answer?  
 4 THE WITNESS: Yeah.  
 5 A. No, I don't think it was every two  
 6 weeks. We get paid every week. It was a  
 7 weekly basis.  
 8 Q. Do you recall ever signing any  
 9 independent contractor agreement with the  
 10 company?  
 11 A. No.  
 12 MR. ANDREWS: You said no, but  
 13 remember, shaking your head won't work  
 14 for the court reporter.  
 15 THE WITNESS: She heard me.  
 16 MR. ANDREWS: She heard you, I  
 17 know. I'm just stressing that, that's  
 18 all. In case you, unfortunately, ever  
 19 have to be in a deposition again, you'll  
 20 know what to do.  
 21 Q. You said you were injured in a car  
 22 accident. You missed three to four months of  
 23 time.  
 24 Was there any other time that you took  
 25 off --

[23] (Pages 86 to 89)



[Page 90]

1 D. Williams  
 2 A. No.  
 3 Q. -- in terms of vacation?  
 4 A. Don't get vacation time here.  
 5 Q. Did you ever take a vacation?  
 6 A. Can't get no vacation.  
 7 MR. ANDREWS: The question is --  
 8 A. No.  
 9 MR. ANDREWS: -- did you ever  
 10 take vacation.  
 11 A. No.  
 12 Q. I'm not asking if you were paid for it.  
 13 I'm asking if you ever took any.  
 14 A. No.  
 15 Q. Other than the time you were injured,  
 16 did you ever take any sick or personal time?  
 17 A. No.  
 18 Q. Never?  
 19 A. No.  
 20 Q. Besides the one incident we've already  
 21 talked about, was there any other time where  
 22 you were unable to work?  
 23 A. No.  
 24 MR. ANDREWS: Objection.  
 25 MR. MEYER: Off the record.

[Page 91]

1 D. Williams  
 2 (Whereupon, a discussion was  
 3 held off the record.)  
 4 Q. Mr. Williams, you had previously told  
 5 the court reporter your address in Yonkers, and  
 6 that's what's on your 1099 as well for 2010.  
 7 A. You said my address wasn't on the --  
 8 Q. On your 1099 form, it was a Convent  
 9 Avenue --  
 10 A. Convent Avenue, yes, sir.  
 11 Q. -- in Yonkers, New York.  
 12 A. Yes, sir.  
 13 Q. How long have you been at that address?  
 14 A. I've been there for a long time, like  
 15 about over ten years.  
 16 Q. Did you ever live in New Jersey?  
 17 A. No, sir.  
 18 Q. When you would show up to work or prior  
 19 to showing up for work, in deciding the routes,  
 20 the manifests in this case, did you ever  
 21 decline a route?  
 22 Did you ever tell the company no, I'm  
 23 not going to do that route, I want to do  
 24 something else?  
 25 A. No, sir.

[Page 92]

1 D. Williams  
 2 Q. Going back to the bags.  
 3 You said that for a period of time you  
 4 would actually pack the bags themselves.  
 5 A. Yes, sir.  
 6 MR. ANDREWS: Objection.  
 7 Q. Would you pack the food?  
 8 The food comes in small containers, I  
 9 would imagine.  
 10 A. Yes, sir.  
 11 Q. Would you actually perform that work or  
 12 just putting those containers into the bags  
 13 themselves?  
 14 MR. ANDREWS: Let him finish.  
 15 Okay. Go.  
 16 A. They would come out, and you got to  
 17 separate them, put them where all the -- where  
 18 they going to go, on the route that it going to  
 19 go on. It would come up in a tray.  
 20 Q. When you say "they," you mean the food?  
 21 A. The food.  
 22 The food come out on a tray, but like  
 23 different package of food, so when it comes  
 24 out, you got to separate them out for the route  
 25 they going on, put them together, then after

[Page 93]

1 D. Williams  
 2 put all them together, then you're going to  
 3 pack the bags on the route that those things  
 4 supposed to go.  
 5 Q. You said you did this a lot more when  
 6 you were in New Jersey --  
 7 A. Yes, sir.  
 8 Q. -- rather than Connecticut and New York  
 9 --  
 10 A. Yes, sir.  
 11 MR. ANDREWS: Objection.  
 12 Q. -- because there were people, correct?  
 13 MR. ANDREWS: Objection.  
 14 A. Yes, sir.  
 15 Q. When you packed the bags into your car.  
 16 How would you do that?  
 17 A. Pack them by the route you're going on.  
 18 So you got to pack them -- the first delivery,  
 19 you put that last one that go inside, the  
 20 delivery you know where you start from.  
 21 Q. You would always pack your car --  
 22 A. Yes, sir.  
 23 Q. -- or would somebody else ever do that?  
 24 A. Pack the car.  
 25 Q. You?

[24] (Pages 90 to 93)

[Page 94]

1 D. Williams  
 2 MR. ANDREWS: You'd pack it  
 3 yourself?  
 4 THE WITNESS: Yes sir.  
 5 Q. How long would that take you? Talking  
 6 about packing the car, not packing the bags,  
 7 packing the car itself.  
 8 A. Take about like twenty minutes,  
 9 twenty-five minutes.  
 10 Q. You said that that was somewhere between  
 11 -- where'd you say how many bags that would be?  
 12 MR. ANDREWS: Is that the  
 13 question?  
 14 Q. You said when you had that  
 15 New Jersey/Upstate New York route it was  
 16 thirty-five to forty-five stops.  
 17 How many bags would that be?  
 18 A. Well, Upstate with thirty-five --  
 19 Q. Let's go back.  
 20 Route NZ, the one you said that you  
 21 normally delivered to --  
 22 A. Yes, sir.  
 23 Q. -- how many bags were on that route,  
 24 generally?  
 25 A. Thirty-five.

[Page 95]

1 D. Williams  
 2 MR. ANDREWS: Objection.  
 3 Q. Approximately thirty-five bags?  
 4 A. Yeah.  
 5 Q. Thirty-five bags would take you twenty  
 6 to twenty-five minutes to pack your car?  
 7 A. No. It would take you more than that.  
 8 Q. When you said twenty to  
 9 twenty-five minutes, what were you referring  
 10 to?  
 11 A. Well, in reference is that when you have  
 12 less bags -- when you have less bags, you take  
 13 that time, but when you have more bags, like  
 14 thirty-five bags, you got to take more time to  
 15 pack the bag, pack the car, because you have to  
 16 pack it -- when it get to the location, you can  
 17 know which location take out.  
 18 Q. I asked you before when you packed the  
 19 car how long it would take you to normally pack  
 20 the car. You said twenty to twenty-five  
 21 minutes.  
 22 A. Yeah, but at the time when you asked me,  
 23 it was like on the shorter days then. On the  
 24 shorter days then. That's why I give you that  
 25 estimate that time.

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1 D. Williams  
 2 Q. I said on average on a regular day.  
 3 A. Yeah.  
 4 Q. You said twenty to twenty-five.  
 5 A. All right. Well --  
 6 Q. On a regular day on the NZ route, how  
 7 long would it take you to pack the car?  
 8 A. Take about a half an hour or more to  
 9 pack your bags.  
 10 Q. That would be with approximately  
 11 thirty-five bags?  
 12 A. Yeah.  
 13 Q. About a minute a bag, roughly speaking?  
 14 A. Yeah.  
 15 MR. ANDREWS: Objection.  
 16 Q. When you packed the bags, would they be  
 17 right next to the car, or would they be on a  
 18 cart?  
 19 How would you get them from the kitchen,  
 20 from the facility, to your car?  
 21 A. Sometimes you got to take them like  
 22 little by little and take them to the car.  
 23 Q. Actually carry them?  
 24 A. Yeah, and take them to the car, and  
 25 sometime the car might park -- because it's

[Page 97]

1 D. Williams  
 2 like of -- a lot of you are there. Sometime  
 3 the cars are parked on the street, so you got  
 4 to walk out, take them by the route, and pick  
 5 them up and put them in the car because you  
 6 don't want to pack them outside because you  
 7 don't want nobody come and move anything that's  
 8 out there. So, you know, you take your time  
 9 and pack them in the car.  
 10 Q. If you had to carry them that way, how  
 11 many could you carry at the same time?  
 12 A. About four -- four -- six at a time.  
 13 Q. In each hand or together?  
 14 A. Yeah, in each -- no. Three in each  
 15 hand. Yeah.  
 16 MR. MEYER: I don't have  
 17 anything further. Thank you very much.  
 18  
 19 (Continued on the next page  
 20 to accommodate the jurat.)  
 21  
 22  
 23  
 24  
 25

[25] (Pages 94 to 97)

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1 D. Williams  
 2 THE WITNESS: Thank you, sir.  
 3 MR. ANDREWS: I don't have any  
 4 further questions, so we can go off the  
 5 record.  
 6 (Time Noted: 12:18 p.m.)  
 7  
 8  
 9 DAVID A. WILLIAMS  
 10  
 11 Subscribed and sworn to before me  
 12 this \_\_\_\_ day of \_\_\_\_\_, 2013.  
 13  
 14 Notary Public  
 15  
 16  
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 19  
 20  
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1 CERTIFICATE  
 2  
 3 I, MELISSA KAHANE, hereby certify that  
 4 the Examination Before Trial of  
 5 DAVID A. WILLIAMS was held before me on the 3rd  
 6 day of October, 2013; that said witness was  
 7 duly sworn before the commencement of his  
 8 testimony; that the testimony was taken  
 9 stenographically by myself and then transcribed  
 10 by myself; that the party was represented by  
 11 counsel as appears herein;  
 12 That the within transcript is a true  
 13 record of the Examination Before Trial of said  
 14 witness;  
 15 That I am not connected by blood or  
 16 marriage with any of the parties; that I am not  
 17 interested directly or indirectly in the  
 18 outcome of this matter; that I am not in the  
 19 employ of any of the counsel.  
 20 IN WITNESS WHEREOF, I have hereunto set  
 21 my hand this 5th day of October, 2013.  
 22  
 23  
 24 MELISSA KAHANE  
 25

[Page 101]

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